

UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF TEXAS
CORPUS CHRISTI DIVISION

THE NANCY SUE DAVIS TRUST,

Plaintiff,

VS.

DAVIS PETROLEUM CORPORATION,

Defendant.

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CIVIL ACTION NO. C-09-22

ORDER

On this day came on to be considered The Nancy Sue Davis Trust's (the "Trust's") Motion to Withdraw the Reference of the Motion of Red Mountain Capital Partners LLC, RMCP PIV PPC, L.P., and Willem Mesdag for Reimbursement of Expenses in Connection with Third Party Subpoenas Issued by Plaintiff (the "Expense Motion"). (D.E. 1.) The Trust argues that this Court should withdraw the reference because "[t]he Appeal and the Expense Motion involve the same nucleus of operative facts," and "the outcome of the Appeal will be germane to the Expense Motion." (*Id.*, ¶ 21.) Because the Court dismissed the Appeal as equitably moot without evaluating its merits¹, the Trust's argument does not provide a basis for withdrawal. Furthermore, the Bankruptcy Court, acting pursuant to the authority granted by Bankruptcy Local Rule 5011², recommended that the Trust's motion be denied. (D.E. 2.) Having reviewed the Trust's submission and the Bankruptcy Court's recommendation, the Court finds that the requisite cause to withdraw the Expense motion does not exist in this case. See 28 U.S.C. § 157(d) ("The district court may withdraw, in whole or in part, any case or proceeding referred


¹ See *The Nancy Sue Davis Trust v. Davis Petroleum Company, et al.*, 2:08-cv-136, D.E. 50.

² Bankruptcy Local Rule 5011 states: "A motion to withdraw a case, contested matter, or adversary proceeding to the district court must be filed with the clerk. Unless the district court orders otherwise, **the matter will first be presented to the bankruptcy judge for recommendation.**" (Emphasis added.)

under this section, on its own motion or on timely motion of any party, **for cause shown.**")

(emphasis added). According, the Trust's motion to withdraw the reference is hereby DENIED.

SIGNED and ORDERED this 4th day of March, 2009.



Janis Graham Jack
United States District Judge